

"Federation Corner" column  
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## **Destroying Belward Farm**

by Tim Newell

Elizabeth Beall Banks, or "Aunt Liz" as my family affectionately called her, lived most of her life on Montgomery County's Civil-War era Belward Farm. Perhaps you've driven past at one time or another, seen the old homestead and the famous Black Gum tree. It's a beautiful property.

A county teacher for some 36 years, Aunt Liz wanted to preserve her pristine patch of the world – situated near the intersection of Muddy Branch and Darnestown Roads – to ensure that it wouldn't be gobbled up and destroyed by developers.

She thought she could trust Johns Hopkins University (JHU) to protect the farm. So she agreed to "gift" them the farm, valued at more than \$50 million, for just \$5 million – with a written understanding that the Baltimore school would create a low-density suburban research campus on the property that would preserve its character. Legal papers were drawn up outlining the terms of the gift, to which JHU readily agreed.

Now Johns Hopkins, in coordination with Montgomery County officials, have conceived new plans for the property – plans that would turn Belward Farm into a cash cow for both the school and local government. The plans call for building a new "Science City" on the former farm, complete with a controversial transit network and high-rise office buildings that JHU would lease to corporations. Rather than create a suburban campus, Hopkins has become a real estate developer.

I'm positive "farm-to-city" isn't quite what Aunt Liz had in mind when she gifted the land to JHU more than two decades ago.

Despite the fact that my family has been litigating in the county courts for more than a year to protect Aunt Liz's donor intent, the school and county act as though they have carte blanche to develop the property as they wish.

For instance, in May of this year, the county released plans for a rapid bus transit network that would cut through Belward Farm. Such a plan can mean only one thing: The county is so confident the property will be developed as they wish that they already are spending taxpayer dollars to create transit plans.

At the time those plans were being developed, the court was leaning strongly in favor of Aunt Liz, saying that her wishes, as expressed at the time of her gift, would have to be incorporated and considered in any legal decision.

In other words, while development might have benefits – such as increasing the county's tax base – there is also a principle involved: That is, if an individual gives a gift to a nonprofit charitable organization for a specific purpose, the recipient of that gift has a moral and legal responsibility to use it for that purpose.

Fast forward to today. In an October motion for summary judgment and in a related courtroom hearing, JHU changed its tune. Rather than referring to Belward Farm as one of the university's largest-ever gifts, JHU claimed that it acquired Belward Farm through a simple arms-length real-estate transaction.

The judge bought into Hopkins' ridiculous argument even though it states in the contract that this is a charitable donation. He did this despite the fact that the property transfer was negotiated by JHU's

fundraising department, was hailed by the university as a gift, and carried restrictions on the use and sale of the land.

Worse, the judge didn't even bother to explain his rationale. Instead, he simply used Hopkins' draft order granting summary judgment as his own, scratching out some of the words with a pen and signing his name.

If Aunt Liz were alive today, the same attitude that led her to chase developers off her farm with a shotgun – and later to strap herself to a tree being bulldozed by JHU (after promising they'd keep the trees, of course) – would keep her fighting this legal battle. That's why our family is appealing the latest ruling.

We're confident that once the judges of the Special Court of Appeals look at the facts, they will see this case is primarily about a charitable donation, not a real estate sale. After all, the beginning of the contract between Aunt Liz and JHU says the agreed intent of the parties is "to make a charitable contribution to [JHU]," referred to as a "not for profit institution of higher education."

When that language is considered, Hopkins' case falls apart.

This case is about more than just Aunt Liz's gift of Belward Farm. It's about all donors who want to contribute something to future generations. Maryland law strongly supports the principle of donor intent. If an institution such as Johns Hopkins can thumb its nose at donor intent, the entire nonprofit sector is threatened.

Johns Hopkins is not desperate for cash. According to the Council for Aid to Education, the university received more than \$485 million in donations last year. Many of those donations, no doubt, were unrestricted. But some came with strings attached. Will Hopkins several years from now go back on those promises as well?

A Charity Navigator survey earlier this year found that 67 percent of donors rank a charity's transparency and accountability of major importance when considering gifts. But only 22 percent of charities actually believe it's important to their donors. Johns Hopkins is obviously not among them.

If future donors can't trust JHU to honor its promises, they may look elsewhere. And who can blame them?

Nobody twisted Hopkins arm to take Belward Farm. The university knew what the intentions for the gift were – and it agreed to them. We obtained ample documents during discovery which confirm that JHU clearly understood my Aunt's donative intent. Now they simply ignore her wishes because they can hear the cash register ringing. It's quite sad.

The simple fact remains that JHU would not own Belward if it wasn't for the generous donation from my family and the family would not have made this gift if it were not for the restrictions placed on the gift to ensure the donative intent was honored.

Our Aunt Liz trusted Johns Hopkins with the one possession that mattered most to her: her beloved Belward Farm. Now JHU wants to destroy it.

*The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to [theelms518@earthlink.net](mailto:theelms518@earthlink.net)*